

APPROVED

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND**  
**IN LEGISLATIVE SESSION**

Tuesday, March 7, 2000 Rockville, Md.

The County Council for Montgomery County, Maryland convened in Legislative Session in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 10:05 A.M. on Tuesday, March 7, 2000.

**PRESENT**

Michael L. Subin, President  
Phil Andrews  
Nancy H. Dacek  
Betty Ann Krahnke

Blair G. Ewing, Vice President  
Isiah Leggett  
Marilyn J. Praisner  
Steven A. Silverman

**ABSENT**

Derick Berlage

The President in the Chair.

**SUBJECT: Approval of Legislative Journal**

**ACTION:** Approved the legislative journals of February 8 and 15, 2000, as amended.

The journals were approved by motion of Councilmember Praisner, without objection, Councilmember Berlage absent.

**INTRODUCTION OF BILLS**

**SUBJECT: Bill 8-00. Streets and Roads – Ground Cover in Public Rights-of-Way**

Councilmember Ewing, a sponsor of the legislation, stated that the bill would allow property owners to place alternative, conservation-promoting plants or other ground cover on their property in the public right-of-way. At present, residents are not allowed to grow anything in these strips of property except turf grass despite the lack of existing legislation or regulations concerning this matter. Mr. Ewing expressed the view that the bill represents a good environmental proposal.

Councilmember Praisner stated that she is sympathetic with the concerns that led to the legislation, but questions whether there are broader issues that need to be addressed such as how the right-of-way is defined and the possibility of addressing the issue through regulation rather than legislation. Ms. Praisner expressed the hope that the Council will examine this issue from a broader perspective rather than attempting to enact legislation for uses in rights-of-way.

Councilmember Dacek said that there are issues that need to be addressed such as the penalty for not applying the appropriate ground cover to rights-of-way and identifying the agency that would be responsible for enforcing the legislation. Ms. Dacek stated that she could not support the legislation as it is currently written.

President Subin said that if Councilmembers have questions concerning the bill, they should present them to the Council committee that will review the legislation.

**ACTION:** Introduced Draft 4 of the bill sponsored by Councilmembers Ewing and Krahnke.

**SUBJECT: Bill 26-99. Collective Bargaining Amendments**

Councilmember Andrews, lead Councilmember for Personnel, presented the report of the Management and Fiscal Policy (MFP) Committee, in accordance with the information contained in the memorandum from Senior Legislative Attorney Faden, dated March 7, 2000. He said that the Committee majority recommended against enactment of the bill and that the Committee majority indicated that if the Council enacts the bill the Committee amendments would offer a reasonable approach. Mr. Andrews said that he did not support the Committee's recommendation.

With respect to the type of binding arbitration, Councilmember Andrews stated that the Committee is recommending a two package approach, last best offer approach in which the arbitrator would review an economic package and a non-economic package and select the more reasonable of each. He said that in Committee, he voted against this approach, preferring instead the original "hybrid" approach: the economic issues would be decided on a last best offer total package basis. The arbitrator would decide which issues are economic and which are non-economic, could decide each non-economic item separately, and would not be bound by the parties' offers.

Councilmember Andrews moved, duly seconded, a substitute motion to amend the bill to substitute the last best offer total package approach for the two-package approach recommended by the Committee majority. He distributed to the Council a written amendment in this regard.

Councilmember Praisner discussed the Committee's review of the bill and explained the Committee majority's rationale for recommending "a two-package, last best offer approach," if the bill is enacted. She said that the majority of the Committee was concerned that without a separation of fiscal and non-fiscal issues, there would not be adequate consideration of the non-compensation issues as the arbitrators tended to focus on that one item. Furthermore the MCGEO bargaining unit, unlike police and fire, incorporated many different functions and positions which also argued for different consideration. She said that in Committee, Councilmember Andrews continued to support the hybrid approach, as originally proposed.

Councilmember Dacek commented on issues related to the types of binding arbitration, expressed concern about binding arbitration in general, and stated that she does not support the bill.

**ACTION:** Amended the bill to make the technical amendments recommended by Council Staff and incorporate Councilmember Andrews' amendment concerning the type of binding arbitration.

The amendments were approved by motion of Councilmember Andrews:

YEAS: Andrews, Leggett, Ewing, Subin, Silverman

NAYS: Dacek, Praisner, Krahnke

ABSENT: Berlage.

Adopted the following amendments as reflected in the bill:

**AN ACT to:**

- (1) modify certain functions of the Labor Relations Administrator;
- (2) revise the process for certifying employee organizations;
- (3) revise the timetable for certain collective bargaining actions;
- (4) require binding arbitration of certain collective bargaining agreements; and
- (5) generally amend the law governing collective bargaining for certain County employees.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-103, 33-106, and 33-108

**Boldface**

Underlining

**[Single boldface brackets]**

Double underlining

**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 33-103, 33-106, and 33-108 are amended as follows:**

**33-103. Labor Relations Administrator.**

- (a) [There is established the position of] A Labor Relations Administrator[, to provide for the effective implementation and administration of] must be appointed to effectively administer this Article [concerning] as it governs selection, certification and decertification procedures, prohibited practices, and the choice of a mediator/fact-finder. The [Labor Relations] Administrator [shall exercise the following powers and perform the following duties and functions] must:

\* \* \*

- (8) Determine any issue regarding the negotiability of any collective bargaining proposal.

- [(8)] (9) Exercise any other powers and perform any other duties and functions [as may be] specified in this Article.

**33-106. Selection, certification, and decertification procedures.**

- (a) The certification or decertification of an employee organization as the representative of a unit for [the purpose of] collective bargaining [shall be initiated in accordance with] must comply with the following procedures:

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- (5) If a different employee organization is certified as the result of an election carried out under subsection (b)(8), that organization must be treated in all respects as a successor in interest and party to any collective bargaining agreement that the previous employee organization was a party to.

(b)

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- (8) If a properly supported and timely filed petition to decertify an existing certified employee organization. and a properly supported and timely filed petition to certify another employee organization. are filed during the same time period under subsection (a)(3) or (a)(4), one election must be held to determine which organization. if any, the employees in the unit desire to represent them. The election ballot must contain, as choices to be made by the voter, the names of the petitioning and certified employee organizations. and a choice that the employee does not desire to be represented by any of the named employee organizations. All other applicable requirements and procedures for the election must be followed.

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**33-108. Bargaining, impasse, [[fact-finding,]] and legislative procedures.**

- (a) Collective bargaining [shall] must begin no later than November 1 before the beginning of a fiscal year for which there is no agreement between the employer and the certified representative, and [shall] must be finished on or before [January] February [[15]] 1. [The resolution of a bargaining impasse or fact-finding shall be finished by February 1.]
- (b) Any provision for automatic renewal or extension of a collective bargaining agreement is void. An agreement is not valid if it extends for less than one year or for more than 3 years. All agreements [become effective] take effect July 1 and end June 30.

- (c) A collective bargaining agreement [becomes effective] takes effect only after ratification by the employer and [by] the certified representative. The certified representative may [provide] adopt its own [rules for] ratification procedures.
- (d) Before November 10 of any year in which the employer and the certified representative bargain collectively, the Labor Relations Administrator [shall] must appoint a mediator/[fact-finder] arbitrator, who may be a person recommended [to her] by both parties. The mediator/[fact-finder] arbitrator [shall] must be available [during the period] from January 2 to [February 1] June 30. Fees and expenses of the mediator/[fact-finder] arbitrator [shall] must be shared equally by the employer and the certified representative.
- (e) (1) During the course of collective bargaining, either party may declare an impasse and request the services of the mediator/[fact-finder] arbitrator, or the parties may jointly request [his] those services before [declaration of] an impasse is declared. If the parties do not reach an agreement by [January] February [[15]] 1, an impasse exists. Any issue regarding the negotiability of any bargaining proposal must be referred to the Labor Relations Administrator for an expedited determination.
- (2) [[This]] Any dispute, except a dispute involving the negotiability of a bargaining proposal, [shall] must be submitted to the mediator/[fact-finder] arbitrator whenever an impasse has been reached, or [before that] as provided in subsection (e)(1). The mediator/[fact-finder] arbitrator [shall] must engage in mediation by bringing the parties together

voluntarily under such favorable circumstances as will [tend to bring about the] encourage settlement of the dispute.

- (3) If [and when] the mediator/[fact-finder] arbitrator finds, in [his] the mediator/arbitrator's sole discretion, that the parties are at a bona fide impasse, [he shall implement the following fact-finding process:] or as of February [[15]] 1 when an impasse is automatically reached, whichever occurs earlier, the dispute must be submitted to binding arbitration.

- [(a.) He shall require the parties to submit jointly a memorandum of all items previously agreed upon, and separate memoranda of their proposals on all items not previously agreed upon.]

- (f)(1) If binding arbitration is invoked, the mediator/arbitrator must require each party to submit a final offer, which must consist either of a complete draft of a proposed collective bargaining agreement or a complete package proposal, as the mediator/arbitrator directs. If only complete package proposals are required, the mediator/arbitrator must require the parties to submit jointly a memorandum of all items previously agreed on. [[The final offer submitted by each party must separately identify economic and non-economic proposals. Economic proposals must include only salary and wages (including wage premiums or differentials, allowances, merit increments, and amounts allocated for cash awards), pension and other [[welfare]] retirement benefits, and employee benefits such as [[health]] insurance. The mediator/arbitrator must decide any issue regarding whether a particular proposal is economic or non-economic.]]

[(b.)] (2) [He] The mediator/arbitrator may require the parties to submit oral or written evidence [or make oral or written] and arguments in support of their proposals. [He] The mediator/arbitrator may hold a hearing for this purpose at a time, date, and place selected by [him] the mediator/arbitrator. This hearing [shall] must not be open to the public.

[(c.)] (3) [On or before February 1, the mediator/fact-finder shall issue a report of his findings of fact and recommendations on those matters still in dispute between the parties. The report shall be submitted to the parties but shall not be made public at this time.]

On or before ~~[[March 1]]~~ February 15, the mediator/arbitrator must select, as a whole, the more reasonable of ~~[[A)] the final~~ [[economic]] offers submitted by the parties ~~[[. and (B) the final non-economic offers submitted by the parties]].~~ [[With regard to the economic offers, the]]  
The mediator/arbitrator must not compromise or alter a final offer. The mediator/arbitrator must not consider or receive any argument or evidence related to the history of collective bargaining in the immediate dispute, including any previous settlement offer not contained in the final offers. However, the mediator/arbitrator must consider all previously agreed-on ~~[[economic]]~~ items, integrated with the disputed ~~[[economic]]~~ items, to decide which ~~[[economic]]~~ offer is the most reasonable. [[The mediator/arbitrator must also decide which of each of the parties' non-economic proposals is the most reasonable under all the circumstances.



The mediator/arbitrator may compromise, alter, or reject any non-economic proposal.]]

[(d.)] (4) In making [findings of fact and recommendations] a determination under this subsection, the mediator/[fact-finder] arbitrator may [take into account] consider only the following factors:

[(i)] (A) Past collective bargaining agreements between the parties, including the past bargaining history that led to the agreements, or the pre-collective bargaining history of employee wages, hours, benefits, and working conditions.

[(ii)] (B) Comparison of wages, hours, benefits, and conditions of employment of similar employees of other public employers in the Washington Metropolitan Area and in Maryland.

[(iii)](C) Comparison of wages, hours, benefits, and conditions of employment of other Montgomery County personnel.

[(iv)] (D) Wages, benefits, hours, and other working conditions of similar employees of private employers in Montgomery County.

[(v)] (E) The interest and welfare of the public.

[(vi)] (F) The ability of the employer to finance economic adjustments, and the effect of the adjustments [upon] on the normal standard of public services provided by the employer.

(5) The [[economic [[offer]] and non-economic offers]] offer selected by the mediator/arbitrator. [[together with the mediator/arbitrator's conclusion on each non-economic proposal,]] integrated with all previously agreed on

items, [[is]] [[comprise]] is the final agreement between the employer and the certified representative. need not be ratified by any party, and [[has]] [[have]] has the effect of a contract ratified by the parties under subsection (c). The parties must execute the agreement. and any provision which requires action in the County budget must be included in the budget which the employer submits to the County Council.

- [(f) After receiving the report of the mediator/fact-finder, the parties shall meet again to bargain. If 10 days after the parties receive the report they have not reached full agreement, or if either party does not accept, in whole or in part, the recommendations of the mediator-fact-finder, the report of the mediator-fact-finder, with recommendations on agreed items deleted, shall be made public by sending it to the Council. The mediator/fact-finder shall also send the Council the joint memorandum of items agreed upon, up-dated with any items later agreed upon. The parties shall also send to the Council separate memoranda stating their positions on matters still in dispute.]
- (g) The [[budget that the]] employer [[submits]] must submit to the Council [shall] [[must include the items that have been agreed to, as well as the employer's position on matters still in dispute. Any agreed or disputed]] any term or condition [[submitted to the Council]] of the collective bargaining agreement that requires an appropriation of funds, or the enactment[, repeal, or modification] or adoption of any County law or regulation, or which has or may have a present or future fiscal impact[[, may be accepted or rejected in whole or in part by the Council]]. [Such terms or conditions shall be identified to the Council by either

or both parties.] The employer must expressly identify to the Council and the certified representative any term or condition that requires Council review. The employer [shall] must make a good faith effort to have the Council [[take action to implement]] approve [any term or condition to which the parties have agreed] all terms of the final agreement that require Council review.

- (h) The Council may hold a public hearing to enable the parties and the public to testify on the agreement [and the recommendations for resolving bargaining disputes].
- (i) The Council may accept or reject all or part of any term or condition that requires Council review under subsection (g). On or before May 1, the Council [shall] must indicate by resolution its intention to appropriate funds for or otherwise implement the [items that have been agreed to] [[agreement]] items that require Council review or its intention not to do so, and [shall] must state its reasons for any intent to reject any [items of the kind specified in subsection (g) that have been agreed to] [[item of the final agreement]] such item. [The Council shall also indicate by resolution its position on disputed matters which could require an appropriation of funds or enactment, repeal, or modification of any County law or regulation, or which have present or future fiscal impact.]
- (j) [Then] If the Council indicates its intention to reject any item [[of the final agreement]] that requires Council review, the Council [shall] must designate a representative to meet with the parties and present the Council's views in the parties' further negotiation on [disputed matters and/or agreed upon] [[matters]] items that the Council has indicated its intention to reject. This representative

must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party may at this time initiate impasse procedures under this Section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, [shall be submitted] to the Council on or before May 10. The Council then must consider the agreement as renegotiated by the parties and indicate by resolution its intention to appropriate funds for or otherwise implement the agreement, or its intention not to do so.

(k) Any agreement [shall] must provide for automatic reduction or elimination of wage [and/]or benefits adjustments if:

- (1) The Council does not take action necessary to implement the agreement, or a part of it; or
- (2) Sufficient funds are not appropriated for any fiscal year [in which] when the agreement is in effect.

[(k)] (l) The Council [shall] must take [whatever actions it considers] any action required by the public interest with respect to [matters] any matter still in dispute between the parties. However, [those actions shall not be] any action taken by the Council is not part of the agreement between the parties unless the parties specifically incorporate [them] it in the agreement.

Enacted Bill 26-99, as amended.

The bill was enacted as amended by a roll call vote:

YEAS: Andrews, Leggett, Ewing, Subin, Silverman

NAYS: Dacek, Praisner, Krahne

ABSENT: Berlage.

**SUBJECT: Emergency Bill 35-99. Rental Assistance Program**

Councilmember Ewing, Chair, Health and Human Services Committee, presented the Committee report on Bill 35-99, in accordance with the memorandum from Senior Legislative Attorney Faden, dated March 7, 2000.

**ACTION:** Adopted the following amendments as reflected in the bill:

**AN EMERGENCY ACT** to:

- (1) revise the law governing eligibility for and payment of Rental Assistance Program and Handicapped Rental Assistance Program benefits;
- (2) repeal the Supplemental Rental Assistance program for families with dependent children;
- (3) remove inconsistencies in the law governing the Rental Assistance Program, and make stylistic and technical changes; and
- (4) generally amend the law governing rental assistance programs.

By amending

Montgomery County Code  
Chapter 41A, Rental Assistance

**Boldface**

Underlining

**[Single boldface brackets]**

Double underlining

**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Chapter 41A is amended as follows:**

**ARTICLE I. RENTAL ASSISTANCE PROGRAM.**

**41A-1. Purpose of the Rental Assistance Program.**

The purpose of this Article is to establish a [rental assistance program] Rental Assistance Program in the Department of Health and Human Services [that, when sufficient funds are appropriated, will provide grants that will] to assist eligible persons or households to pay the rent on dwelling units [which] that are appropriate to their needs. [It is the intent of the] The Council intends that the [rental assistance program] Rental Assistance Program be periodically modified by regulations adopted by the County Executive to meet changes in the level of appropriated funding, the anticipated number of households eligible [applicants] for [assistance] benefits, the current average costs of rental housing, and the extent to which available funding can provide a useful level of assistance to [grant] benefit recipients.

**41A-2. Definitions.**

In this Article, the following words have the meanings indicated:

**(a) Applicant means a person, commonly the head-of-household, who applies for rental assistance on behalf of a household.**

**[(a)] (b)(1) Asset means any property or interest in property, including:**

- (A) cash;**
- (B) a time or demand deposit in a financial institution or money market fund;**
- (C) stock;**
- (D) a bond;**
- (E) a share in a mutual fund; [or]**
- (F) an interest in a trust; or**
- (G) real estate.**

**(2) Asset does not include:**

- (A) furniture and furnishings [used in the rental unit] used in the rental unit;**
- (B) clothing [used by a member of the family]; or**

- (C) one automobile for each member of the [family] household who is a licensed driver[, one automobile used only for personal transportation].

[(b)] (c) **Department** means the [Montgomery County] Department of Health and Human Services.

[(c)] (d) **Director** means the Director of the Department of Health and Human Services or the Director's designee.

[(d)] (e) **Disabled person** means any individual who:

- (1) [Is receiving] receives disability benefits under the Social Security Act or the Railroad Retirement Act, or from a federal, state, or local government disability retirement system [of a municipal corporation, a county, a state, the federal government, or the District of Columbia]; or
- (2) has a physical, mental, or emotional impairment that substantially limits one or more major life activities of the individual as the Department determines after the individual submits a statement of condition of disability from the individual's physician.

[(e)] (f) **Eligible household** means a household that:

- (1) meets the standards of eligibility adopted in [[Executive]] regulations, and
- (2) resides in an eligible rental unit.

[(f)] (g) **Eligible rental unit** means a rental unit in the County:

- (1) that conforms to the standards adopted in [[Executive]] regulations; [,and]
- (2) for which the household has a [written or oral lease or] rental agreement;  
and
- (3) that maintains all licenses and permits as required by Chapter 29.

[(g)](h)(1) **Gross income** means the total household income from all sources, whether or not reported on a federal or state income tax return.

- (2) **Gross income** does not include losses from business, rental, or capital transactions and certain third-party educational. and restitution payments specified in [[Executive]] regulations.

[(h)] (i) **Household** means:

- (1) two or more persons, whether or not related, who live together [as a single housekeeping unit] in an eligible rental unit[, sharing the costs of the rental unit and food];
- (2) a disabled person; or
- (3) a person 62 years of age or older.

All persons living in an eligible rental unit [are considered] must be treated as one household for the purposes of determining eligibility.

[(i)] (j) **Recipient** means a person who has applied for and been approved to receive a [grant] benefit under this Article. Each recipient must be at least 18 years old, a resident of the County, reside at the application rental unit, and be a member of the household.

[(j)] (k) **Rental unit** means a [leased] unit occupied by not more than one household, which includes:

- (1) a detached or attached [house] single family home or townhouse;
- (2) an apartment in a multi-family facility;
- (3) a condominium or cooperative unit in a multifamily facility;
- (4) a rental mobile home in a licensed mobile home park, or a rented mobile home pad on which the applicant has placed a mobile home in a licensed mobile home park;
- (5) a room or group of rooms in an attached or detached [house] single family home or townhouse, apartment, condominium or cooperative. [that is occupied by a household of 2 or more persons; and]
- [(6)] a room or groups of rooms leased to a disabled person or to a person 62 years of age or older.]

**41A-3. Eligibility for [rental assistance] Rental Assistance Program benefits.**

- (a) A household is eligible [for rental assistance] to receive Rental Assistance Program benefits if the household meets the standards established in [[Executive]] regulations [adopted by the County Executive]. The standards of eligibility must consider, but are not limited to, the following elements:
  - (1) gross income limits for varying household sizes;
  - (2) the combined assets of the members of the household;



- (3) appropriateness of the size of the rental unit for the number of persons in the household; and
  - (4) whether the actual rent paid exceeds a monthly rent limit for the size rental unit that has been set by regulation.
- (b) Not more than one household in a rental unit may be approved for or receive [rental assistance payments] benefits under this Chapter during any month.
- (c) A household is not eligible for [rental assistance] benefits under this Article if the [head of household] applicant is an undocumented [alien] resident. An undocumented resident applicant may receive benefits if [[children]] a child for whom the applicant receives Temporary Cash Assistance benefits [[reside]] resides in the household.

**41A-4. Application for [rental assistance] benefits.**

- (a) Each applicant for [rental assistance] the Rental Assistance Program must submit, on a form provided by the Department, an application [which] that must contain all [the] information, documentation and certifications necessary to [ascertain] decide eligibility and [assistance] benefit levels.
- (b) The [application must be signed by the applicant, and the] applicant must [also] sign the application and attest that the information provided is true and complete.
- (c) Any household [which] that has received [rental assistance] Rental Assistance Program benefits [in the previous year] must reapply [and be approved for eligibility each year in order to continue to receive rental assistance] after each approval period expires to verify if the household continues to meet the applicable eligibility criteria. A recipient who moves from a rental unit for which [rental assistance has] benefits have been received must reapply to receive [rental assistance] benefits for any other unit.

**41A-5. Rental assistance [grants] benefits.**

The [rental assistance program] Rental Assistance Program administrator must approve or disapprove each application received in accordance with the [program criteria] applicable regulations, and must notify each applicant in writing of any approval or disapproval. The administrator may authorize the Department of Finance to make benefit payments to eligible households as follows:

- (a) [The rental assistance grant payable] Benefits under this [article] Article must be [made] paid in accordance with [executive] regulation. The regulation must specify the [amounts of monthly grants] amount of the benefit, considering the actual monthly rent paid by a tenant for a rental unit [or the average rent being charged in Montgomery County for a rental unit of suitable size, whichever is less]. The regulation may also consider a maximum allowable rent cost, based on household size and other variables. Maximum [monthly benefits] benefit amounts may be established for classes of eligible households based on age, household size, and other variables specified by regulation.
- (b) [Rental assistance payments] Benefits under this Article [will] must be [in the form of] paid monthly [joint payee checks payable to the recipient and the owner of the rental unit, the owner's agent, or the primary lessee of the rental unit] in a form set by regulation.
- (c) [A rental assistance payment] Benefit payments below an amount specified by regulation must not be made.
- (d) A household receiving [rental assistance] benefits must notify the Department of [any increase] changes in its gross income [of 10 percent or more] as required by regulation.
- (d) If a recipient of [rental assistance] Rental Assistance Program benefits dies or become institutionalized during the [12 month] period for which [rental assistance has] benefits have been approved, the remaining [monthly rental assistance] benefit payments [must only] may be paid to [the] a [remaining] surviving member of the household if the household continues to reside at the application rental unit [if the Department is notified in writing and the Department finds that the surviving spouse or remaining household members are eligible for rental assistance]. At the end of the approval period, the household must reapply to see if the remaining household members continue to be eligible for Rental Assistance Program benefits.

**41A-6. – 41A-8. Reserved.****ARTICLE II. HANDICAPPED RENTAL ASSISTANCE****41A-9. Purpose of rental assistance program for the handicapped.**

- (a) The purpose of this Article is to provide rental assistance to handicapped persons who:
- (1) Are unable to live independently;
  - (2) Whose income meets requirements established by regulations; and
  - (3) Who require a supporting service.
- (b) Unless specified otherwise, regulations applicable to the Rental Assistance program under Article I do not apply to the Handicapped Rental Assistance program under this Article.

**41A-10. Definitions.**

In this Article, the following words have the meanings indicated:

- (1) **Handicapped**["Handicapped"] means [the] a physical, mental, or emotional impairment of any person that substantially limits one or more major life activities.
- (2) **Licensee**["Licensee"] means a person or organization:
  - [a.] (A) Licensed to operate a group residential care facility under [the provisions of] Chapter 23A [of this Code]; or
  - [b.] (B) Whose residential care facility does not require a license under Chapter 23A, but whose program has been approved by the Director of [the] Health and Human Services [Department] under Section 23A-4.
- (3) **Supporting services**["Supporting services"] means services available based on assessed need for:
  - [a.] (A) Counseling;
  - [b.] (B) Protective services to adults;
  - [c.] (C) Housing improvement services;
  - [d.] (D) Health-related services, including personal care;
  - [e.] (E) Housekeeping and shopping assistance;
  - [f.] (F) Social participation and chore services;
  - [g.] (G) Home-delivered meals; and
  - [h.] (H) Transportation to needed community resources or facilities.

**41A-11. Eligibility for handicapped rental assistance.**

- (a) A handicapped individual is eligible for rental assistance under this Article if the individual:
  - (1) Meets the income requirements of applicable regulations [adopted by the county executive];
  - (2) Is accepted by a licensee for participation in its residential care program; and
  - (3) Has been a resident of [Montgomery] the County for [six (6)] 6 months before submitting an application for assistance or institutionalization.
- (b) Residing in an institution in [Montgomery] the County does not fulfill the residency requirement.
- (c) A recipient of housing assistance under this Article is not eligible for assistance under Article I.

**41A-12. Application for handicapped rental assistance.**

- (a) An application must be filed with the Department of Health and Human Services on the application form that the Department prescribes.
- (b) The County may [enter into a] contract with a licensee or organization [in order] to make monthly rental assistance payments on behalf of tenants with disabilities.
- (c) The Department of Health and Human Services must certify approval of the contract to the Director of Finance, who [will] must then make the payments.
- (d) An applicant whose application is not approved [has the right to] may appeal to the Chief Administrative Officer.
- (e) An appeal under this Section must:
  - (1) Be in writing;
  - (2) State the reasons for the appeal; and
  - (3) Be filed with the Chief Administrative Officer within 30 days [from] after the date [of] the notice of the Department's decision was sent.
- (f) The Chief Administrative Officer [will] or a designee must conduct an informal hearing of each appeal. Any interested party [has the right to] may submit oral or written testimony or evidence without regard to technical rules of evidence.

**41A-13. Amount of handicapped rental assistance.**

The County Executive annually must determine the amount of rental assistance payment under this [section] Article by regulations adopted under method (1).

**[41A-14. Regulations.**

The county executive must adopt regulations under method (2) to implement this article.]

**[41A-15. Penalties.**

(a) Any person who knowingly makes or helps a person to make a false statement or gives or helps a person to give fraudulent information in order to obtain rental assistance is subject to:

- (1) Punishment for a class A violation under section 1-19 of this code;
- (2) Liability for the repayment to the county of any rental assistance that may have already been paid by the county to the person; and
- (3) Liability for interest on the total amount paid at the rate of two-thirds of a percent per month until the total rental assistance principal amount and interest is repaid.

(b) The county may enforce these provisions by appropriate judicial action, and the person in violation is liable for the costs of the proceedings.]

**[ARTICLE III. SUPPLEMENTAL RENTAL ASSISTANCE FOR FAMILIES WITH  
DEPENDENT CHILDREN]**

**[41A-16. Definitions.**

The definitions in Section 41A-2 apply to this Article.]

**[41A-17. Eligibility for supplemental assistance.**

An applicant is eligible for assistance under this Article if:

- (a) the applicant has been certified by the Department of Social Services as eligible to receive Aid to Families with Dependent Children (AFDC) as an adult head of household;
- (b) the household pays at least \$150 a month for rent; and
- (c) the household does not receive rental assistance or similar housing assistance under any state or federal program.

However, a household in which an adult head of household has been declared ineligible to receive AFDC benefits because the head of household is either an undocumented alien,

a caretaker relative of the dependent child or children, or is receiving disability or SSI payments from the Social Security Administration, must not be denied assistance under this Article for those reasons.]

**[41A-18. Application for assistance.**

- (a) Every applicant who seeks assistance under this Article must:
  - (1) file an application with the Department on a form prescribed by the Department;
  - (2) provide proof of eligibility for AFDC from the Department of Social Services;
  - (3) submit other information that the Department finds necessary to determine eligibility; and
  - (4) certify that all information provided is accurate and complete.
- (b) To continue receiving assistance, a recipient must annually re-certify the accuracy and completeness of all information provided or provide new information to reflect changed circumstances so that the Department may determine the recipient's eligibility to receive further assistance.]

**[41A-19. Assistance payments.**

- (a) Assistance under this Article may be paid monthly in an amount established by Executive Regulation.
- (b) The payment must take the form of a joint payee check, payable to the recipient and the owner of the rental unit, or the owner's agent, or the primary lessee of the rental unit.]

**ARTICLE [IV] III. GENERAL PROVISIONS**

**[41A-20] 41A-14. Regulations.**

The County Executive must adopt regulations under method (2) to implement this Chapter.

**[41A-21] 41A-15. Report; annual review of benefit levels.**

The County Executive during the budget process must report to the County Council on the Rental Assistance [program] Program and the Handicapped Rental Assistance Program. In the operating budget submitted annually to the Council, the Executive must review Rental Assistance Program and Handicapped Rental Assistance Program benefit levels and must propose any adjustment necessary to achieve the goals of each program.

**[41A-22] 41A-16. Waivers.**

After finding financial or other hardship, the Director may waive any eligibility requirement under this Chapter. [The report submitted under Section 41A-21 must include a summary of the waivers granted during the last calendar year and the reason for each waiver.]

**[41A-23] 41A-17. Appeals.**

[An applicant for or recipient of rental assistance may appeal a decision of the Department to a designee of the Chief Administrative Officer who is not an officer or employee of the Department in writing, stating the reason for the appeal, within 30 days after receiving the Department's decision. The person hearing the appeal may affirm, modify, or reverse the Department's decision as the facts and the applicable laws require.] [[The Executive must establish by regulation a case review and appeal procedure.]] An applicant for or recipient of rental assistance may appeal a decision of the Department to a designee of the Chief Administrative Officer, who is not an officer or employee of the Department, in writing, stating the reason for the appeal, within 30 days after receiving the Department's decision. The person hearing the appeal may affirm, modify, or reverse the Department's decision as the facts and the applicable laws require.

**[41A-24] 41A-20. Penalties.**

- (a) Any person who knowingly makes, or helps another person make, a false or misleading statement [in order] to obtain assistance under this Chapter:
  - (1) has committed a class A violation;
  - (2) may be required to repay the County any [rental assistance] Rental Assistance Program or Handicapped Rental Assistance Program benefit improperly paid in reliance on the false or misleading statement; and
  - (3) may be required to pay the County interest on the total amount improperly paid at the rate of one percent per month on the outstanding balance owed until the total [assistance] benefit improperly paid is repaid.
- (b) The County may enforce this Section by appropriate legal action. Any person liable under subsection (a) is also liable for all costs of any enforcement proceeding.
- (c) If the Director finds, after giving the affected household reasonable written notice and an opportunity for an impartial hearing, that any household has improperly obtained [rental assistance] Rental Assistance Program or Handicapped Rental

Assistance Program benefits or otherwise materially violated this Chapter, the Director may discontinue [rental assistance payments] benefits to that household and exclude that household from receiving future [rental assistance] Rental Assistance Program or Handicapped Rental Assistance Program benefits.

**Sec. 2. Emergency Effective Date.**

The Council declares that an emergency exists and that this legislation is necessary for the immediate protection of the public health and safety. This act takes effect on the date on which it becomes law.

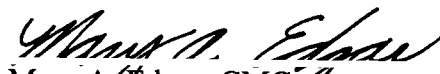
**ACTION:** Enacted Emergency Bill 35-99, as amended.

The bill was enacted, as amended, by motion of the HHS Committee, by a roll call vote:

YEAS: Andrews, Leggett, Ewing, Silverman, Praisner, Krahnke, Subin  
ABSENT: Berlage, Dacek (temporarily).

The meeting adjourned at 10:27 A.M.

This is an accurate account of the meeting:

  
Mary A. Edgar, CMC  
Clerk of the Council

Minutes written by: Mary A. Edgar